

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/810,687  
FILED: March 29, 2004  
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### REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### Status of Claims

Claims 1, 3-12, 14-22, 24-32 and 34-35 have been rejected.

Claims 1, 3-12, 14-22, 24-32 and 34-35 remain pending in the application.

Claims 1, 3, 5, 6-12, 14, 16-22, 25-32 and 34-35 have been amended.

Applicants respectfully assert that the amendments to the claims add no new matter.

### Allowable Subject Matter

Applicants wish to thank the Examiner for indicating that claims 5-11, 16-21, 25-28, 30-31 and 34-35 would be allowable if rewritten in independent form and amended to overcome the rejections under 35 U.S.C. § 112.

Independent claim 1 has been amended to include the limitations of original claim 5, independent claim 12 has been amended to include the limitations of original claim 16, independent claim 22 has been amended to include the limitations of original claim 25, independent claim 29 has been amended to include the limitations of original claim 30 and independent claim 32 has been amended to include the limitations of original claim 34. In addition claims 1, 12, 22, 29 and 32 have been amended to overcome the rejections under 35 U.S.C. § 112.

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### CLAIM REJECTIONS

#### 35 U.S.C. § 112 Rejections

In the Office Action, the Examiner rejected claims 1, 3-12, 14-22, 24-32 and 34-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 1, 12, 22, 29 and 32 have been amended by deleting the phrase "select/selecting if ...using a second modulation type" to overcome the deficiencies noted by the Examiner. Each of claims 3-11, 14-21, 24-28, 30 and 34-35 depends directly or indirectly from one of independent claims 1, 12, 22, 29 and 32. Accordingly, Applicants respectfully request that the rejection of claims 1, 3-12, 14-22, 24-32 and 34-35 under 35 USC § 112 be withdrawn.

In addition, claims 5, 16, 25, 30 and 34 which were amended to include the phrase "select/selecting if ...using a second modulation type", previously included in claims 1, 12, 22, 29 and 32, respectively, have been amended to clearly indicate "what is being selected".

#### 35 U.S.C. § 102 and § 103 Rejections

In the Office Action, the Examiner rejected claims 1, 3-4, 12, 14-15 and 32 under 35 U.S.C. § 102(e), as being anticipated by U.S. Publication No. 2003/0169763 to Choi et al.

Claims 22, 24 and 29 were rejected under 35 U.S.C. 103(a), as being unpatentable over Choi et al. (US 2003/0169763) in view of Li et al (US 2005/0146470).

As indicated by the Examiner, claims 5, 16, 25, 30 and 34 would be allowable if rewritten in independent form.

Independent claims 1, 12, 22, 29 and 32 have been amended to incorporate the limitations of original claims 5, 16, 25, 30 and 34, respectively. Accordingly, claims 1, 12, 22, 29 and 32 are believed to be allowable. Each of dependent claims 3-4, 14-15 and 24 depends, directly or indirectly from one of independent claims 1, 12 and 22 and includes the limitations of the claim from which it depends, and is therefore likewise allowable.

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Accordingly, Applicants respectfully request that the rejections of claims 1, 3-4, 12, 14-15, 22, 24, 29 and 32 be withdrawn.

### CONCLUSION

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

No fees are believed to be due associated with this paper. If any such fees are due, please charge such fees to deposit account No. 50-3355.

Respectfully submitted,



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